



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

JUL 28 REC'D

July 20, 2006

The Honorable Henry Waxman
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Waxman:

This responds to your letter, dated May 11, 2006, regarding the determination of the Office of Professional Responsibility (OPR) to close its investigation into the involvement of Department of Justice attorneys in the President's Terrorist Surveillance Program (TSP). OPR investigates allegations that Department lawyers have engaged in professional misconduct; as you know, OPR closed its investigation into whether Department lawyers involved in TSP somehow engaged in professional misconduct because OPR was not granted access to classified information about the TSP. We are sending a similar response to the other Members who co-signed your letter.

Decisions to provide access to classified information about the TSP for non-operational purposes are made by the President of the United States. With regard to TSP, the President decided that protecting the secrecy and security of the program requires that a strict limit be placed on the number of persons granted access to information about the program for non-operational reasons. Every additional security clearance that is granted for the TSP increases the risk that national security may be compromised.

Notwithstanding the sensitivity of the information involved, the Department of Justice has been extremely forthcoming in providing information about the well-established legal authorities that support the Program, which were set forth in detail in a 42-page paper released to the public on January 19, 2006. I would further note that the TSP has been, and continues to be, the subject of extensive oversight both by the Executive Branch and by the Congress:

- Congressional leaders, both Republican and Democrat, including the leaders of the Intelligence Committees, have been given regular, extensive briefings since the Program's inception. In addition, all of the members of the Senate Select Committee on Intelligence and all of the members of the House Permanent Select Committee on Intelligence have been briefed on the Program.

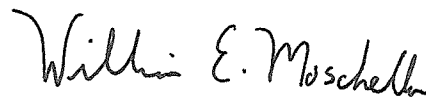
The Honorable Henry Waxman
Page Two

- This year, the Attorney General has appeared at four congressional hearings; senior Administration officials have participated in numerous congressional briefings and discussions; and Department of Justice officials have written over thirty letters to Congress and answered over 250 questions for the record about the Program.
- The Program is reviewed approximately every 45 days by officials at the highest levels of government, including the Office of the Director of National Intelligence, and the Department of Justice, as well as career lawyers and officials at the National Security Agency. That review includes scrutiny by the National Security Agency's Office of the General Counsel and by the agency's Inspector General, who is specifically charged with overseeing the lawfulness of employees' actions in implementing National Security Agency programs.

These steps, among others, have ensured strong and continuing Executive Branch and Congressional oversight of the TSP.

We hope that this information is helpful. Please do not hesitate to contact this Office if we may be of assistance with other matters.

Sincerely,

A handwritten signature in dark ink, reading "William E. Moschella". The signature is written in a cursive, slightly stylized font.

William E. Moschella
Assistant Attorney General